

Abstract Proceedings of the Travancore Legislative Council.

The Council met in the Dewan's room, Public Offices, at 3 P. M. on Saturday the 17th February 1894.

PRESENT :—

The Dewan, ... *Presiding.*
M. R. Ry. K. Krishnaswamy Rao Avergal.
Mr. F. Watts.
M. R. Ry. V. Nagam Iyer Avergal.
M. R. Ry. P. Thanu Pillay Avergal.
M. R. Ry. N. Madhavan Tampi Avergal.
M. R. Ry. E. Rama Iyer Avergal.

The Secretary reported that the Towns Conservancy and Improvement Bill received the Royal assent on the 25th January 1894 and became law as Regulation II of 1069, and that the Report of the Select Committee on the Jenmi and Tenant Bill having been received since the last meeting was published in the Gazette together with the Bill as settled by them and a Malayalam translation. He next presented the following papers :—

Observations on the Departmental Enquiries Bill as settled by the Select Committee, by the High Court, Superintendent of Police, Dewan Peishcar Mr. Govinda Pillay and Mr. Rajaraja Vurma of Aripad.

Letter from Mr. Krishnaswamy Rao intimating his intention to apply for permission to introduce a Bill to amend the Registration Regulation I of 1042.

Letter from Mr. Thanu Pillay intimating his intention to apply for permission to re-introduce, in an amended form, the Bill to provide for the construction, repair and maintenance of Irrigation works, the original of which he had withdrawn some time ago.

As copies of the above were previously furnished to the members, they were taken as read.

Mr. Krishnaswamy Rao moved that the Select Committee's Report on the Departmental Enquiries Bill and the Bill as amended by them be taken into consideration.

Mr. Rama Iyer seconded the motion.

Carried.

Mr. Rama Iyer moved his first amendment thus :—“ In section 2 omit the words ‘ holding ’ and ‘ final ’ in the 1st line ; ‘ under the special orders of Our Government ’ in the 2nd line ; and ‘ during such enquiry ’ in the fifth line. And add ‘ authorised to hold ’ after ‘ officer ’ in the first line ; ‘ during such enquiry ’ after ‘ may ’ in the 2nd line ; ‘ or other thing ’ after ‘ document ’ in the fourth line ; and the following words after ‘ control ’ in the fifth line—‘ the production of which is in the opinion of such officer necessary or desirable for the purpose of such enquiry. And such person shall be bound to obey such summons.’ ”

He said :—“ If this amendment is carried, the main para of section 2 will stand thus :—

“ Any officer authorised to hold a departmental enquiry into the conduct of any public servant may, during such enquiry, summon any person residing within Our territories to appear before him and give evidence or to produce or cause to be produced any document or other thing in his possession or under his control the production of which is in the opinion of such officer necessary or desirable for the purpose of such enquiry. And such person shall be bound to obey such summons.”

"The object of this amendment is chiefly to extend the power of summoning witnesses to all enquiries whether preliminary or final. The Bill as originally introduced did allow the power of summoning witnesses in preliminary enquiries also. But it was the Select Committee that has so modified the section as to restrict its application to final enquiries only. It appears to me that the power of summoning witnesses is equally, if not more, necessary in preliminary enquiries than in final enquiries. I believe Government, before it orders a final public enquiry into the conduct of any public servant, would naturally have a preliminary enquiry conducted by a responsible officer to see whether there is a *prima facie* case to justify a formal final enquiry. How is the preliminary enquiry to be effectually conducted if the officer is not able to summon witnesses? Let me put a concrete case. Suppose a Dewan Peishcar is required to hold a preliminary enquiry into a charge of bribery brought against a Tahsildar by a complainant. Suppose the complainant says that the Tahsildar took a bribe of certain things and that such things are in the possession of A and B who reside at some distance from where the Peishcar is, and urges that, if they are immediately summoned, the whole thing could be established and that he personally could not produce them. What is the Peishcar to do under these circumstances? Is he to proceed to the houses of A and B who might live at 50 or 60 miles away, leaving any urgent business which he may have in hand, or is he to tell the complainant that, unless he produces A and B, he will not act in the matter or is he to recommend at once to Government to appoint a Commission and put the Tahsildar under a formal final enquiry, that the Commissioner might exercise the power of summoning A and B in such enquiry? I hope none of these courses will commend itself to you. In such a case, it cannot be denied that the only safe course to be adopted is to summon those persons without delay and examine them. If the examination of witnesses is regularly conducted under the safeguards provided in the other sections of this Bill, such examination will be often the means of discovering the truth or falsehood of the complaint. In any case, it cannot be denied that the Government before passing its orders will have materials before them upon which they may decide as to the necessity or otherwise of putting the public servant under trial. Again, is not the power of issuing summonses in preliminary enquiries exercised now? Are there sufficient reasons for prohibiting the present practice? The Select Committee say in their report as reasons for denying the power of summoning witnesses in preliminary enquiries *firstly* that such enquiries are generally started upon the complaint of some individual and the complainants will, as a rule, produce the necessary evidence without any extraneous help. *Secondly* the officer may advantageously proceed to the spot and personally take any evidence forthcoming in support of the accusation. As to the first reason I have my serious doubts as to its correctness. I could point out many instances where complainants have avowed their utter inability to produce the witnesses themselves. As to the second ground, I have only to say that there are certain class of officers who cannot conveniently proceed to the spot. For instance, will it be convenient to a Zillah Judge who may have to hold a preliminary enquiry to close his Court and proceed to the spot? Even in the case of an officer who could proceed to the spot, what procedure is he to follow having gone to the locality? Is he to go personally and search for the witnesses in their houses or is he to send for those witnesses to appear before him? If the latter, does not sending for the witnesses mean summoning them? Since the publication of the report of the Select Committee, the Judges of the High Court, the Superintendent of Police and a Dewan Peishkar, every one of whom has had experience in holding preliminary enquiries, strongly urge that the power of summoning witnesses should be allowed in preliminary enquiries also. I hope these considerations will show the necessity for adopting the amendment proposed.

The next point in this amendment is the inclusion of the words 'other thing' after the word 'document,' the necessity for these words is self-evident. It is not merely a document that may have to be produced, but oftentimes a jewel, an umbrella or a Dhuppatta may have to be brought in evidence."

Mr. Madhavan Thumby seconded the motion.

In supporting the amendment Mr. Thanu Pillay said:—

"I agree with the mover of the amendment in thinking that it is essential

that all officers holding departmental enquiries should have the power of summoning witnesses and calling for the production of documents. The special orders of Government alluded to in the section as amended by the Select Committee would, I believe, apply only to cases of formal and public enquiries by a commission contemplated in para 4 of the Proceedings of Government dated 13th November 1891. But departmental enquiries into the conduct of public servants removable from office without the sanction of Government, are and must be held by Heads of Departments and other officers without any 'special orders from Government.' The bulk of the public servants fall under the latter group and it is important in the interests of justice that the officers holding such enquiries should have the power of collecting sufficient evidence to form a correct judgment, and in the absence of the power of summoning witnesses and compelling the production of documents, it may not be possible to obtain all the available and may be—the best evidence. I would, therefore make the section general as proposed by Mr. Rama Iyer. But I beg to observe that I am opposed to the formal recording of evidence during the so called 'preliminary enquiries' i. e. enquiries preparatory to the formal enquiry contemplated in the 4th para of the Proceedings above referred to, behind the back of the accused persons. I am aware, that to enable the Government to decide whether a formal enquiry should be ordered or not, they should have sufficient data and that these can be best obtained by a formal recording of evidence on oath. But it appears to me that the risk to a public servant arising from the practice of recording on oath evidence against him in his absence and possibly under circumstances in respect of time, place and the like, which are not favourable to the deponents speaking the whole truth and nothing but the truth, counterbalances the danger of an enquiry being in some cases ordered without full and sufficient evidence. The evidence recorded in the preliminary enquiry in the absence of the accused person is of course not admissible against him in the subsequent formal enquiry; but in view of the liability of the deponent to be prosecuted for perjury in case he contradicted or materially modified his former statement, I am not prepared to say that the above circumstance minimises the evil, so far as the accused person is concerned. I am therefore of opinion that section 5 should be so modified as to empower officers who hold preliminary enquiries merely to take notes of evidence to enable them to submit a report to the Dewan under para 5 of the Proceedings above quoted.

I have permitted myself to make these remarks which should have been properly reserved until we came to section 5, because I want it to be understood that I support the amendment subject to the modification I have indicated, of that section."

Mr. Watts said :—"Gentlemen, you are aware that when this bill first came before the Council I was of opinion that its provisions should be applicable to such enquiries only as are formally instituted into the conduct of a public servant by a commission of one or more officers appointed under the authority of Government. I emphasized this opinion at the meetings of the Select Committee of which I had the honor to be a member, and notwithstanding all that has been said by the mover of the amendment, I beg to adhere to that opinion. You will no doubt grant that it should be the object of every Government to secure to its service and attract to it good and efficient men by holding out to them permanency of their tenure of office during good conduct. From my experience of many years, it appears to me that the amendment just proposed is calculated to defeat this object and to engender "a habit of servile dependence on a superior which strikes at the root of all independence and manliness of character" which dependence it was the aim of the Proceedings of His Highness' Government of the 13th November 1891 to prevent.

In the first place, the first enquiry into charges against a public servant, (it may be an officer placed in a high position) is generally of a confidential character. Even the reports made to Government on the result of such enquiry are in many cases marked "confidential."

In so far as enquiries within a department are concerned, the Head of that department has the means of preventing needless publicity, and in order to get the

evidence of members of that department or of those in the service, judicial summonses are not necessary. The moment you begin to issue judicial processes, the confidential nature of the enquiry disappears. The majority of charges preferred against public servants are by professional petition writers and others who have nothing to lose by falsely accusing men who from the nature of their duties have necessarily to incur the ill-will of parties against whom, in the performance of their duties, they may be called upon to act. These generally remain behind the scenes and put forward worthless men ready to undertake the task for a consideration, of slandering the public officer. Nothing may come out of the complaint, still mud has been thrown in the hope that some of it may stick, the particulars of the evidence taken have become public and is generally exaggerated and as Government do not publish a vindication of the character of their servant, he loses to some extent at least the confidence that the public have to repose in him. Sometimes a charge is preferred not in the hope of an enquiry being held or proof called for, but merely to prejudice the superior authorities against the man complained of. I have in view a recent case in which a high officer was charged among other things with corruption and embezzlement by one who had no personal grievance, but professed to act in the interests of public justice. He went so far as to solemnly verify his statement when called upon to do so, and offered to prove his allegations. Yet when an officer was deputed to hold the preliminary enquiry, he declared that he could adduce no proof of the two very grave charges mentioned above. Another man might perhaps have summoned half a dozen witnesses, not that he believed they would prove any thing but simply to give as much publicity as possible and make a display of his ability to prove. I state this in order to show that the first enquiry into the charges against public servants ought to be proceeded with cautiously and with as little publicity as possible. There may be occasion to call in outside evidence even in the first enquiry, but such cases will not be many. At any rate it will not be in the power of a complainant to demand his summonses being sown broad cast in the hope that something may be elicited from the mouths of many witnesses on which he could make a point.

The preliminary or first enquiry being merely intended to satisfy the head of a Department or the Government that a *prima facie* case exists to subject the accused to an open enquiry, it seems to me that its scope should be limited to such an enquiry as a private individual without the power of summoning or administering oath would make into the conduct of a suspected servant before he resolves to dismiss or prosecute him.

But the publicity given to the enquiry is by no means the strongest objection I have to urge against the amendment proposed by my friend. These preliminary departmental enquiries have to be made by various grades of officers from the Dewan or a Judge of the High Court down to a Sub-Overseer or a Proverthicareen. I will suppose that a D. P. W. Sub-Overseer on 40 Rs. or a Proverthicareen on 20 Rs. has to complain to his superior officer of the conduct of a Maistry or peon under his orders. He can scarcely record a complaint without making some sort of an enquiry. Is he to issue summons and take evidence on oath? I will grant that the power of doing so under these solemn formalities is delegated to some superior officer. How then is the Sub-Overseer or the Proverthicareen to form his opinion of the conduct of the man to be complained against before handing him up to the superior officer? If one informal enquiry is to be held by the lower and a more formal one by the superior officer which of these two is the preliminary enquiry contemplated by the Bill as proposed to be amended. I scarcely expect we will be able to define the "preliminary enquiry" referred to by Mr. Rama Iyer if called upon to do so. If the Proverthicareen holds the first enquiry as necessarily he must, and the superior officer the further enquiry, then the latter becomes the second or formal departmental enquiry, and the Bill as framed by the Select Committee stands—and I certainly have no objection to offer to that enquiry being held on summonses and under oath, the Proverthicareen having already found reason to subject his subordinate to an open investigation. All that I contend for is, that as in every case, there must be some enquiry before the investigating officer makes up his mind to accuse his subordinate, that enquiry should be quite informal.

It should be borne in mind that no amendment has yet been notified to be made to section 5 of the Bill which enjoins that evidence be taken on oath at the final or formal departmental enquiry, though my friend Mr. Thann Pillay in supporting the amendment referred to, evidently objected to such recordation. Herein lies also my principal objection to the amendment, taking section 5 to stand as it is. In every judicial proceeding whether Civil or Criminal all evidence on oath which will be used against a party, is recorded in his presence and the right is given him of testing that evidence by cross-examination which is his great safeguard. Hence when the Police collect evidence against an accused preliminary to charging him, no oath is allowed to be administered to the deponents and the evidence gathered is not permitted to be used at his trial, because it was given in his absence. So general is this rule, that I find only two exceptions to it (1) confessional statements made before Magistrates and (2) dying declarations. In the first case, the evidence is admissible as being a statement against the prisoner's own interests which no man is supposed to make. In the second, that there is a better guarantee of truth in the declarant's belief that he is about to meet his Maker, there to render an account of his actions, and in this solemn moment no man is believed to die with a lie in his mouth. It is the belief in immediately impending death that gives force to this declaration. It is therefore very repugnant to one's sense of justice that evidence should be recorded on oath behind a man's back and the deponent legally bound down to his statement when the person whose conduct is under enquiry is not present to test that evidence by cross-examination or even to hear it. For preliminary departmental enquiries are generally held without the official complained against being present. It has been suggested that the evidence recorded at the first enquiry should not be used against the accused in any subsequent and more formal enquiry. But *cui bono*. The same persons depose again, and the first statement having been made on oath, they give their second deposition also on oath with the sword of Damocles in the form of a charge of perjury hanging over their heads. They must either adhere to their original statements or take their trial on that grave charge. One is not likely to run this risk among the class of witnesses generally appearing in such enquiries, especially if he knows that the person accused is an obnoxious individual whom the superior officer in a position of influence wishes to be rid of.

It was observed in the course of the discussion that to let a man say what he will at the first enquiry when he is not on oath and allow him to vary materially from it at the second, after he has been sworn, is to hold out a premium to falsehood and that the recording of sworn testimony on both occasions would be to educate the people to speak the truth.

It seems to me that the education should proceed in a different direction and that the argument supposes too much. It almost presumes that a man will not speak the truth except under oath, a presumption which I scarcely think we are justified in making, as a general rule.

It is the cross-examination in the presence of the accused that is the great test of truth. At the first examination when the accused is not present an answer might be elicited from a witness which might go against the accused. If he were present to cross-examine, an explanation might be elicited which might give quite a different complexion to the first answer. There will also be a class of witnesses who give an answer such as they think would please the superior officer or from whom it is obtained under hope of reward or fear of punishment. Such occurrences are not uncommon in departmental enquiries. To bind down such a witness by an oath at the first examination, with a charge of perjury hanging against him if he did not adhere to it at the formal enquiry, would not be fair to the person charged who but for the consequences of the oath, might be able to elicit from the mouth of the witness himself that this deposition was given under coercion or hope of reward.

Should Mr. Ramier's amendment pass and section 5 of the Bill stand as it is, I shall bring forward a series of amendments, to regulate "preliminary enquiries."

The British Government have an Act similar to the one now before this Council. No. 37 of 1850, and I see that its scope is restricted to "formal and public

enquiries." I think we would do well to follow the lead of the Paramount Power with their wider experience and greater knowledge."

Mr. V. Nagam Iyer seconded Mr. Watts.

With reference to Mr. Rama Iyer's 1st amendment to section 2, Mr. Krishnaswamy Rao said:—"The Bill as originally introduced by me, covered cases of preliminary enquiry. It was in the select committee that I agreed to the proposal of my friends Messrs. Watts and Nagam Iyer, to limit the scope of the Bill to final enquiries. Since the publication of the select committee's report, I had the advantage of reading the opinions of Messrs. Justices Kunhi Ramen Nair, Sita Ramier and Cosby and of Messrs. Bensley and Govinda Pillay (Dewan Peishcar), on the Bill as settled by the select committee. They strongly disapprove of the amendment made by the committee. All of them held preliminary enquiries into the conduct of subordinate officers and experienced difficulty in collecting evidence, owing to the absence of legal sanction to summon parties and witnesses. Their opinions are therefore entitled to great weight. I never had the misfortune of holding a departmental enquiry (preliminary or final). I am not therefore in a position to say whether moral influence is sufficient to collect evidence in preliminary enquiries. Under these circumstances, I do not feel warranted in opposing Mr. Rama Iyer's amendment. The evils pointed out by Mr. Watts require serious consideration. To minimise them, if not to remove them altogether, some further amendments are necessary. I will introduce them later on."

On the motion of Mr. Rama Iyer being put to the vote, it was carried by a majority of five.

Mr. Rama Iyer moved his second amendment. "Add the following as the second proviso to section 2 'Provided also that no person shall be bound to attend in person unless he resides within 100 miles from the place where his attendance is required.'" He said:—"The section as it stands authorises the enquiring officer to summon witnesses from any part of Travancore. Thus, a witness from Parur may be required to attend at Nagercoil. The amendment proposed is to confer a privilege on the witness of not being compelled to attend at a place beyond 100 miles from the place of his residence."

Mr. Thanu Pillay seconded the motion.

The amendment was carried.

Mr. Rama Iyer moved his third amendment. "Add the following sentence after the word 'enquiry' in the second line of section 3. 'It shall specify the time and place at which the person summoned is required to attend and also whether his attendance is required for the purpose of giving evidence or to produce a document or for both purposes; and any particular document which the person summoned is called on to produce shall be described in the summons with reasonable accuracy.'" He observed that no important principle is involved in the amendment. It only provides as to what a summons should contain. This proviso is probably omitted in the Bill by mere oversight.

Mr. Madhavan Tampi seconded the motion.

Carried.

Mr. Rama Iyer then moved to add the following new section after section 4.

"5. Any officer authorised to hold a departmental enquiry may, during such enquiry, require any person appearing before him under summons or not, to give evidence or to produce a document or other thing then and there in his actual possession or power. Such person shall be bound to obey such requisition." He said:—"This provision is necessary to make it obligatory on the part of a witness attending before any enquiring officer to give evidence when required so to do and to make him liable to punishment under the Penal Code if he does not obey the requisition."

Mr. Madhavan Tampi seconded the motion.

Carried.

Mr. Rama Iyer next moved to add the following section. "6. Whenever any officer holding a departmental enquiry considers that the examination of a witness is necessary for the ends of justice and that the attendance of such witness cannot be procured owing to the inability to compel the personal attendance of such witness or that the attendance of such witness cannot be procured without an amount of delay, expense or inconvenience, which, under the circumstances of the case, would be unreasonable, such officer may issue a commission for the examination of such witness on interrogatories or otherwise." He said:—"The section is intended to enable the enquiring officer under certain conditions to examine a witness on commission. Similar power will be found in the Criminal and Civil Procedure Codes."

Mr. Thanu Pillay seconded the motion.

Carried.

Mr. Rama Iyer next moved to substitute the following for section 5 in the Bill. "7. All witnesses in departmental enquiries shall be examined on oath or solemn affirmation in the manner prescribed for criminal courts." He said:—

"I propose by this amendment to substitute the provision contained in the original Bill for that of the select committee's Bill. My object is to restrict the scope of the section for swearing alone, leaving the manner of conducting the examination to be provided by a different section. The section in the select committee's Bill is evidently intended to provide for examination of witnesses only in the case of final enquiry and consequently it provides for examination of witnesses only in the presence of public servants concerned. Now as we have already provided for summoning and examining witnesses in preliminary enquiries also, (vide sections 2 and 5 already passed) we have necessarily to modify this section with a view of including preliminary enquiries within its scope in which case the presence of the accused cannot be insisted upon. For this purpose I think it best to deal with the question of swearing witnesses separately from the manner of examining them. Turning to the point of swearing witnesses, I propose by the amendment that witnesses in all enquiries, whether final or preliminary, should be examined on oath. The select committee say in their report that it is not desirable to examine witnesses in preliminary enquiries on oath as such enquiries may not often be conducted by officers of high rank. There is of course some force in the argument that it must not be in the power of any officer to administer oath, especially officers who are likely to misuse such power. But I think that is a question to be considered in deciding the class of officers that ought to be authorised to hold such enquiries. But if enquiry is to be held by any officer whether such enquiry is preliminary or final, witnesses examined during such enquiry must be bound to speak the truth. Does it stand to reason that we can indirectly proclaim by legislation that at one stage viz. at the stage of preliminary enquiry—witnesses are not bound to speak the truth and that they will not be liable to any penal consequences by falsely making a statement at such a stage. The question is, are witnesses legally to be bound to speak the truth in a preliminary enquiry or not? If they are legally to be bound to speak the truth, administering the oath only makes it at least in the case of some people morally binding too. But if we are to declare that witnesses are not to be legally bound, I think we will be really setting a very bad lesson to the public. Moreover, as I have observed in connection with an amendment, a preliminary enquiry is always a very essential one as, on the result of it, a public enquiry has to be started. No doubt, there is some disadvantage in examining a witness on oath in the absence of the public servant concerned. Such statement ought not to be allowed as evidence against the public servant in the final enquiry. This I have provided in another amendment which I intend to propose in another section. If the preliminary enquiries are conducted as sometimes now conducted by some Revenue Officers viz. Gumastahs taking statements of witnesses not in the hearing of the enquiring officer, there will be of course a great danger in recording such statements on oath. But we provide in this Bill for examining witnesses in all due form. The Officers are themselves required to examine witnesses in their presence and record their evidence in their own hand. It may be said that a witness may be easily induced to speak against a public servant in his absence and when that is recorded on oath, he will be

naturally bound to stick to it when examined in the presence of the public servant. There is of course this difficulty and the remedy, I would say, lies in the fact that the witness would be subject to cross-examination in the second or final enquiry and his prior statement made in the preliminary enquiry will not be made any use of in the final enquiry against the public servant. To avoid this difficulty, it is quite unsafe to declare that witnesses are not legally bound to speak the truth in preliminary enquiry.

I dare say we could picture to ourselves how abominable the state of things would be if the effect of our legislation is to allow a number of malignant persons to come forward and speak falsely against a public servant and thus cause the public servant to be put to the odium of a public enquiry and then to allow them to turn round and swear that they falsely spoke against the public servant in the previous enquiry and to let them free, not making them liable to punishment, because they were not bound to speak the truth in the preliminary enquiry. On the whole, considering the advantages and disadvantages of examining witnesses on oath in preliminary enquiries, I feel no doubt as to the necessity of the proposed amendment."

At this stage the Council resolved to postpone further consideration of the Bill at an extraordinary meeting to be convened hereafter.

Mr. Krishnaswamy Rao, in applying for permission to introduce a Bill to amend Regulation I of 1042, said "I have undertaken this legislation at the request of the Head of the Registration Department, Mr. L. Soobramony Aiyer, whose intimate knowledge of the working of the present Regulation I of 1042, during the last quarter of a century, enables him to form an authoritative opinion as to the necessity for the amendment of the law to suit the present requirements. It is not intended to disturb the existing classification of documents for compulsory and optional registration. The main object of the proposed legislation is to simplify the procedure so that the work of the Registration Department which is gradually increasing, may be lightened, consistently with public security. The fact that the number of registered documents has risen from 17,334 in 1044 to 1,28,280 in 1068 speaks most emphatically to the need for simplification of procedure. Under the Regulation of 1042, the Registering officers are compelled to record statements of all persons examined by them to prove the identity of the executants of the documents presented for registration. The Bill which I beg permission to introduce, proposes that except in certain specified cases, the statements of witnesses need not be recorded. If this proposal meets with the approval of this Council, it will save the Registering officers much of their clerical labor, and enable them to devote more time to the registration of documents and thereby reduce considerably, the inconvenience caused to the public by the unavoidable delay which occurs under the present system in the registration of documents.

This opportunity is taken to abolish special registration of money bonds and the system of filing in registration offices the memoranda of decrees and orders of civil courts relating to immovable property. They are expensive to the parties and practically useless. In British India they are things of the past.

The present system of appeals is found to be very inconvenient to the public and in some respects anomalous. If the registration of a document is refused by a Registrar, parties have now to go in appeal before the Huzur Registrar, and, if they fail to secure from him a favorable order, they have to appeal to the Zillah Judge. The decision of the Zillah Judge is final only for the special purposes of registration. The authenticity of the document may be questioned in a regular suit in a Munsif's Court, and litigated in two superior courts. All this means considerable expense, delay and annoyance. The alternative proposal in the Bill is that the District Registrar should, for registration purposes, adjudicate upon the character of the document, with the option to the dissatisfied party to establish his right in a court of law under the ordinary procedure. It is hoped that this will minimise the evils of the present system. The deposit of wills is a novel feature of the Bill. A few remarks regarding it may not be out of place here. In Travancore, we have a very large number of Christians and Mahomedans who are under their personal laws competent to make wills. Many a testator feels reluctant to register his will, owing to the premature publicity the registration in the usual course might give to its

contents. As an unregistered will holds out a premium for ruinous litigation after the death of the testator, it is the duty of the legislature to devise the means of securing to a will, all the advantages of a registered document without the disadvantage of the untimely publicity above pointed out. The deposit of sealed covers containing wills in the registration offices, which now obtains in British India, seems to be the best means of attaining this object.

The other provisions of the Bill raise no question of principle.

With these remarks, I beg permission to introduce the Bill."

Permission having been granted, Mr. Krishnaswamy Rao introduced the Bill and further moved that the Bill with the statement of objects and reasons be published in the Gazette with their translations.

Ordered accordingly.

Mr. P. Thanu Pillay moved for permission to introduce the 'Irrigation Bill.' He observed:—"The Council may remember that, in October 1891, I introduced a Bill to provide for the construction, repair and maintenance of irrigation works. That Bill was chiefly intended to give legal force to certain administrative measures adopted by His Highness the Maha Rajah's Government in view to improve certain irrigation and drainage works in parts of Kottayam, Quilon and Trevandrum Divisions. The 4 southernmost Taluqs of the Padmanabhapuram Division and the Taluq of Shencottah in Quilon were expressly excluded from the Bill as the administrative measures referred to did not affect those Taluqs. The opinion of some of the members of the Council and of some other gentlemen (official and non-official) with whom I had the pleasure of discussing the subject, was that it would be better to make the Bill more comprehensive than it was and to bring within its scope Shencottah and Nanjenaad. In deference to these views I withdrew the Bill with a view to revise and amplify it and I now move for leave to bring forward the amended Bill.

I shall just touch upon a few of the leading features of the Bill.

The Bill provides for the construction, restoration, repair and maintenance of irrigation and drainage works. The former are as important for agricultural purposes in South Travancore as the latter are in upper and middle Travancore, and both classes of works are with few exceptions in a state of disrepair. There are in the Taluqs of Thovalay, Agastheswaram, Eraniel and Calculam about 3,000 tanks of which more than 2,000 have gone out of order. The drainage channels in the Quilon and Kottayam Divisions of which there are about 300 in number are mostly in the same condition. The same is more or less the case with similar works in the rest of the country. The works repaired by Government even in recent years have in some cases fallen, and in others are gradually falling into disrepair and it is of the utmost importance that proper provision should be made for the maintenance in an efficient condition of such works.

The ryots whose prosperity greatly depends upon the condition of the irrigation and drainage works are, owing to some extent, no doubt, to their generally indigent circumstances but chiefly, I believe, to the absence of the spirit of self-help and combination, quite apathetic, and I doubt that without State intervention they could either now or in the near future be expected to help themselves. In view of the very large number of works which call for attention, it appears to be practically impossible for Government to undertake the restoration and maintenance of all of them at its cost, at any rate to do so within a reasonable time. It is therefore expedient and necessary to leave the minor works which require no professional supervision and which could ordinarily be carried out by a contribution of labour by the people interested, provision being made to enforce the obligation. In determining what works should be thus left to the people themselves, reference should of course be had to past usage and local conditions. The maintenance of all works, excepting such large works as the main irrigation channels in south Travancore, should ordinarily devolve on the ryots.

The Bill has been drafted on the lines above indicated. It also provides for the protection of works from injury, encroachment or other interference and also from danger arising from sudden floods and other natural causes.

Provision has also been made for facilitating the distribution and for preventing the wastage of water.

I trust I have given the Council some idea of the root, principle and the general scope of the Bill and I would reserve my further observations to a later stage."

Permission having been granted Mr. Thanu Pillay introduced the Bill. The publication of the Bill was deferred.

With the permission of the President Mr. Thanu Pillay moved for leave to introduce a Bill to amend the Abkary Regulation and in doing so, said:—

The Abkary Regulation I of 1054 has been found to be defective in certain respects. The corresponding Madras Act (III of 1864) has undergone several revisions and it is expedient to amend the above Regulation on the lines of the latest Madras Act (I of 1886). I shall just indicate a few points in which such a revision of the law is called for. The definition of the term 'liquor' is not clear and comprehensive. There is no provision in the Regulation regarding "intoxicating drugs" and none for regulating the importation and exportation of liquor and intoxicating drugs. To facilitate the prevention and detection of Abkary offences, it is necessary to empower the officers of the Land Revenue, Salt and Customs departments to arrest persons who are found to actually commit certain offences. The present Regulation contains no such provision. The provisions relating to the number and location of shops and the quality of liquor sold are not sufficiently precise and stringent. The punitive sections also require considerable amendment. Mere fines which alone the present Regulation provides for, do not produce sufficient deterrent effect. The provisions relating to appeal and revision also call for revision.

I hope I have indicated some reasons for amending the law and I would therefore not trouble the Council with any further observations just now. I beg therefore leave to introduce the Bill."

Permission to introduce the Bill was granted.

Mr. Watts similarly asked for permission to introduce a Bill to amend the Arms Regulation III of 1061. It was granted.

SHUNGRASOBYER,
President.